IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11098 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MS PUNANI, AGP, for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 26/04/2001

ORAL JUDGEMENT

1. The petitioner has been detained under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act" for short) by virtue of an order passed by Commissioner of Police, Rajkot City,

Rajkot, in exercise of powers under Section 3(1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act" for short), dated 19th August, 2000.

2. The grounds of detention indicate that the detaining authority took into consideration three offences registered against the petitioner for offences punishable under Sections 406, 420, 114, 120-B and 201 of Indian Penal Code as well as statements of two witnesses, namely, Vinodrai Kanjibhai Gohel and Smt. Pallaviben Pankajbhai Rathod. The detaining authority also considered the possibility of resorting to less drastic remedies, but came to conclusion that, considering the illegal and anti-social activities of the petitioner as a dangerous person, it is necessary to immediately prevent him from pursuing his activities. The detaining authority came to conclusion that detention under PASA Act is the only efficacious remedy that can be resorted to, to immediately prevent the petitioner from pursuing his activities.

3. Learned advocate Mr. Prajapati contended that all the three offences registered against the detenu are of cheating people and the statements also relate to similar offences. Mr. Prajapati contended that the activity of the detenu cannot be considered to be that of a dangerous person. In support of his contention, he has placed reliance on the decision of this Court in the case of Ranubhai Bhikhabhai Bharwad v. State of Gujarat and Ors. reported in 2000(3) GLR 2696. He, therefore, submitted that his petition may be allowed.

4. Ms. Punani, learned Assistant Government Pleader, has opposed this petition.

5. Considering the rival side contentions, it is clear that in this case the detenu is detained as he is found to be involved in white collar crime of cheating people. All the three registered offices as well as the statements of witnesses relate to similarly offences charged against the petitioner-detenu. The activity of the petitioner cannot be considered as that of a dangerous person. The case is squarely covered by decision rendered by this Court in the case of Ranubhai Bhikhabhai Bharwad (supra) wherein it was held that merely because of registration of offences punishable under Sections 386, 406, 420 and 447 of Indian Penal Code against the petitioner, it cannot be said that the petitioner is a dangerous person. The order of detention, therefore, stands vitiated in the instant case and the petition deserves to be allowed on this count

alone.

7. In view of the above discussion, the petition is allowed. The impugned order of detention dated the 19th August, 2000 passed against the detenu-Rameshbhai Kababhai Bhanderi is hereby quashed. The detenu is ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no orders as to costs. Direct service is permitted.

[A.L. DAVE, J]

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